

REMARKS

Claims 1-11 and 24-29 are pending in the application.

Claims 1-11 and 24-29 are rejected.

Reconsideration and allowance of claims 1-11 and 24-29 is respectfully requested in view of the following:

The Rejection of Claims 1-11 and 24-29 as being unpatentable over Perrin et al:

Claims 1-11 and 24-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Perrin et al (US 2002/01161924) (Perrin). Applicants traverse these rejections on the grounds that this reference is defective in establishing a *prima facie* case of obviousness by the examiner as is required by MPEP §2142.

Independent claim 1 includes: "...a device for communicating a packet, the device including a plurality of sets of indicators associated with a connection interface, the indicators being activated in response to detected protocols associated with the interface; each set of indicators being in a different platform layer and each indicator in each set being associated with a different protocol operating within its respective layer; and whereby, in response to a packet being communicated with the device, one or more protocols associated with the packet being detected and the detected protocol activating a respective indicator in a respective layer."

Independent claim 10 includes: "...providing a device for communicating a packet, the device including a plurality of sets of indicators associated with a connection interface, the indicators being activated in response to detected protocols associated with the interface; providing each set of indicators in a different platform layer, each indicator in each set being associated with a different protocol operating within its respective layer; and whereby, in response to a packet being communicated with the device, one or more protocols associated with the packet being detected and the detected protocol activating a respective indicator in a respective layer."

The reference fails to teach or suggest the claimed combination as Perrin does not disclose a plurality of sets of indicators associated with a connection interface that are activated in response to detected protocols associated with the interface, each set of indicators being

associated with a different protocol such that in response to a packet being communicated, one or more protocols associated with the packet is detected and that detected protocol activates a respective indicator, as required by independent claims 1 and 10. Perrin discloses a router 10 with ports 28-49 and a plurality of LED's 48-57 "which operate to provide the user of the router 10 with certain information regarding the operation and performance of the router" (Paragraph [0044], lines 1-4). Perrin further discloses that such "information regarding operation and performance of the router" includes "...a visual indication of network activity through the router. The LEDs provide a bar graph display where more energized LEDs indicate more network traffic through the router. When two routers are paired together to form a high-availability router, one LED acts as a 'heart beat' to provide a visual indication that each router is communicating with the other. The remaining five LEDs continue to act as a bar graph of network traffic." (Paragraph [0045]). The LEDs disclosed by Perrin function to indicate the amount of network activity through the router and whether routers are communicating with each other. There is no teaching or suggestion in Perrin that any of the LEDs 48-57 are activated in response to detected protocols associated with packets received through any of the ports 28-49. Furthermore, Perrin does not disclose sets of indicators associated with a connection interface and in different platform layers such that each indicator in the set is associated with a different protocol operating within its respective layer. The LEDs 48-57 disclosed by Perrin simply detect network traffic and router communication.

As the PTO recognizes in MPEP §2142:

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

The USPTO clearly cannot establish a *prima facie* case of obviousness in connection with the amended claims for the following reasons.

35 U.S.C. §103(a) provides that:

[a] patent may not be obtained...if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Thus when evaluating a claim for obviousness all limitations must be evaluated. As stated above, Perrin does not disclose a plurality of sets of indicators associated with a

connection interface that are activated in response to detected protocols associated with the interface, each set of indicators being associated with a different protocol such that in response to a packet being communicated, one or more protocols associated with the packet is detected and that detected protocol activates a respective indicator, as required by independent claims 1 and 10.

Therefore, it is impossible to render the subject matter of independent claims 1 and 10 obvious based on the single reference, and the above explicit terms of the statute cannot be met. As a result, the USPTO's burden of factually supporting a *prima facie* case of obviousness clearly cannot be met with respect to independent claims 1 and 10, and a rejection under 35 U.S.C. §103(a) is not applicable.

Dependent claims 2-9 depend from and further limit independent claim 1, and dependent claims 11 and 24-29 depend from and further limit independent claim 10.

Therefore, for at least the reasons stated above, independent claims 1 and 10 and dependent claims 2-9, 11 and 24-29 are submitted to be allowable.

There is still another compelling, and mutually exclusive, reason why the reference cannot be applied to reject the claims under 35 U.S.C. §103(a).

Furthermore, the MPEP §2143.01 provides:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

With regard to claims 1-11 and 24-29, Perrin provides no suggestion, incentive, or motivation for a plurality of sets of indicators associated with a connection interface that are activated in response to detected protocols associated with the interface, each set of indicators being associated with a different protocol such that in response to a packet being communicated, one or more protocols associated with the packet is detected and that detected protocol activates a respective indicator, as required by independent claims 1 and 10. As stated above, the LEDs disclosed by Perrin function to indicate the amount of network activity through the router and whether routers are communicating with each other. There is no

suggestion, incentive, or motivation in Perrin that any of the LEDs 48-57 may be activated in response to detected protocols associated with packets received through any of the ports 28-49. Furthermore, Perrin does not disclose sets of indicators associated with a connection interface and in different platform layers such that each indicator in the set is associated with a different protocol operating within its respective layer. The LEDs 48-57 disclosed by Perrin simply detect network traffic and router communication. Dependent claims 2-9 depend from and further limit independent claim 1 and dependent claims 11 and 24-29 depend from and further limit independent claim 10.

Therefore, the Examiner's combination arises solely from hindsight based on the invention without any showing of suggestion, incentive or motivation in the reference for the combination. For at least the reasons stated above, independent claims 1 and 10 and dependent claims 2-9, 11 and 24-29 are submitted to be allowable.

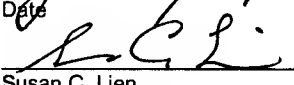
Thus, the Examiner's burden of factually supporting a *prima facie* case of obviousness has clearly not been met, and the rejection under 35 U.S.C. §103(a) should be withdrawn.

In view of the above, it is respectfully submitted that claims 1-11 and 24-29 are in condition for allowance. Accordingly, an early Notice of Allowance for the remaining claims is courteously solicited.

Respectfully submitted,


Joseph R. Mencher
Registration No. 56,822

Dated: 1-19-07
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: 512/867-8459
Facsimile: 214/200-0853
ipdocketing@haynesboone.com

CERTIFICATE OF TRANSMISSION	
I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office, via EFS-Web, on the date indicated below:	
on	<u>January 19, 2007</u>
Date	<u></u>
	Susan C. Lien